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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.            | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------------|------------------|
| 10/634,475  | 08/04/2003  | Todd Peavey          | 760-137 CON                    | 6795             |
| 23869   | 7590        | 09/12/2006           |                                |                  |
| HOFFMANN & BARON, LLP<br>6900 JERICHO TURNPIKE<br>SYOSSET, NY 11791 |             |                      | EXAMINER<br>BOUCHELLE, LAURA A |                  |
|   |             |                      | ART UNIT<br>3763               | PAPER NUMBER     |

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                    |              |
|------------------------------|--------------------|--------------|
| <b>Office Action Summary</b> | Application No.    | Applicant(s) |
|                              | 10/634,475         | PEAVEY, TODD |
|                              | Examiner           | Art Unit     |
|                              | Laura A. Bouchelle | 3763         |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 04 August 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 42-54 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 42-54 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/4/2003.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 42-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slivenko (US 4108174). Slivenko discloses a catheter interlock system that includes an extractable engagement member (catheter 65a) and a subcutaneously implanted port member (19). A tubular body (65a) with proximal and distal ends, a tubular lumen (97) therebetween, and a tapered bevel defining an opening (99) defines the extractable engagement member (see figure 10). The port member has a housing (19) with a generally cylindrical valve (23) rotatably positioned therein. The valve has both open and closed ends and an orifice (31) proximate the closed end. The body is rotatable about the central axis between open and closed positions (5:27+). The valve has a longitudinal groove defined along the interior surface thereof (see figure 8 numbers 39 and 41). In addition, the device has a conduit (17) that lies adjacent the valve and has an opening (27) proximate the closed end of the valve. When aligned and the valve is in the open position, the bevel opening (99) of the tubular body, orifice (31) of the valve, and opening (27) of the conduit are in fluid communication. When the valve is in the closed position, the orifice and opening are not in alignment and fluid communication is precluded. The examiner considers it inherent that the engagement member being a catheter has a gripping

member and tactile indicia to facilitate gripping and torquing at the proximal end in the form of a turn knob (see figures 12 and 14 proximal end of catheter).

Additionally, Slivenko discloses inserting the device within a living body (7:25), inserting the engagement member within the device (inherently percutaneous), and rotating the engagement member.

3. With regard to independent claims 42, Slivenko meets the claim limitations as described above but fails to include the engagement member having a tapered protrusion.

At the time of the invention, it would have been obvious to construct the tubular body (catheter 65) of Slivenko with tapered protrusions instead of flutes 75 and 77. The valve body has internal grooves 39 and 41 and by providing the catheter outer wall with tapered protrusions one could eliminate the need for cannula receptacle 43, thereby increasing device simplicity. Additionally, it would have been obvious to reverse the arrangement of the guides 79 and 80 on the interior of the cannula receptacle and the flutes of the catheter body, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. See *In re Gazda* 219 F.2d 449, 104 USPQ 400 (CCPA 1955).

4. Claims 53, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slivenko in view of Chu et al (US 5989223). Claims 53, 54 differ from Slivenko in calling for the gripping member to include a turn know with indicia on it. Chu teaches a valve having a knob with gripping members and indicia describing the condition of the valve, e.g., "open" and "closed" to allow the user to be sure of the position of the valve (Col. 13, line 63 – Col. 14, line 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Slivenko to include a knob with indicia as taught by Chu so that the user can be sure of the position of the valve.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Bouchelle whose telephone number is 571-272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura A Bouchelle  
Examiner  
Art Unit 3763

LAB

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